IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7130 of 2002

WITH

CIVIL APPLICATION NO.4289 OF 2003

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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YASH N NANAVATI - Petitioner(s)
Versus
GUJARAT UNIVERSITY & 1 - Respondent(s)

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Appearance :
MR JR NANAVATI for Petitioner
MR NV ANJARIA for Respondent : 1,
NANAVATI & NANAVATI for Respondent(s) : 2,

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 08/10/2007

ORAL JUDGMENT

1. Leave to amend the affidavit in-reply dated 24th July, 2006.

2. By this petition under Article 226 of the Constitution of India, the petitioner seeks the following substantial relief :

> *"14[A] The Honourable Court be pleased to issue a writ of mandamus or a writ, order or direction in the nature of mandamus quashing the mark sheet at Annexure-B to this petition and be further pleased to declare that the Petitioner has passed the F.Y.B.A. Examinations conducted by the Gujarat University in May 2002; to direct respondents to issue revised mark sheet inter alia declaring the petitioner passed in the F.Y.B.A. Examination, to direct respondents to permit the petitioner to prosecute further studies as if he has passed the F.Y.B.A. Examination conducted by the Respondent University in April 2002."*

3. By an order dated 14.8.2002, this Court had issued Rule and by way of interim relief, permitted the petitioner – student to prosecute further studies in S.Y.B.A., either with the respondent No.2 College or with any other College affiliated to the respondent No.1 University, and to appear in the examination of the College as well as the University.

4. Subsequently, by an order dated 16.7.2003 passed in Miscellaneous Civil Application No.1315 of 2003, this Court had permitted the C.U.Shah Arts & Science College to declare the result of the S.Y.B.A. Examination undertaken by the petitioner, and had directed that if the petitioner is found to have successfully cleared the examination, to grant admission in the Third Year of Arts (TYBA) and permitted him to appear at the University examination and to prosecute further studies on the basis of result of Third Year B.A. Examination.

5. Thereafter, the petitioner has filed an affidavit dated 24th July, 2006 along with supporting documents. Upon perusal of the averments made in the affidavit along with the documents annexed thereto, it appears that by notification No.466 of 2004 dated 13.7.2004, issued by the Gujarat University, it was declared that the petitioner had passed at the Third B.A. (Reg.) Examination subject to the following condition:

> *"This Result is declared by order of Hon'ble Gujarat High Court dated 16.7.2003 in MCA 1315/03 in SCA 7130/02 with the condition that students will pass his First B.A. Internal Examination within one year from the last college till that (then) he may*

carry his further studies as per High Court Order."

The said condition was also mentioned in the Mark Sheet, which came to be issued with the said notification.

6. The petitioner has thereafter obtained admission in a Law College and pursued further studies. In compliance with the condition stipulated in the aforesaid Notification, the petitioner appeared in the First Year Internal Examination conducted by C.U.Shah Arts College, Ahmedabad in the Academic Year 2004-2005 and successfully cleared the said examination, pursuant to which the respondent No.1 University issued a Notification bearing No.23 of 2006 dated 7.1.2006 whereby the petitioner was declared to have passed the First B.A. (Reg) Examination held in April 2002.

7. In the facts and circumstances noted hereinabove, the grievance raised in the petition no longer survives, as the respondent No.1 University has vide the aforesaid Notification dated 7.1.2006 declared that the petitioner has passed the First B.A. Examination. However, Mr.J.R.Nanavati, learned Counsel for the petitioner has submitted that during the pendency of the petition, the petitioner has not been awarded B.A. Degree. IN

response to the grievance raised by Mr.Nanavati, Mr.N.V.Anjaria, learned Counsel for the respondent University, states on instructions, that the University will do the needful to issue B.A. Degree Certificate to the petitioner.

8. In the above view of the matter, the petition succeeds and is, accordingly, allowed. Rule is made absolute.

ORDER IN CIVIL APPLICATION NO.4289 OF 2003 :

As the main petition has been disposed of, this Civil Application does not survive, and is disposed of, accordingly.

[HARSHA DEVANI, J.]

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